

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

NATHAN PAUL SEVERSON,

Case No. 14-cv-4500 (MJD/TNL)

Plaintiff,

v.

REPORT AND RECOMMENDATION

MICHAEL J. COLICH, ESQ.,

Defendant.

Plaintiff Nathan Paul Severson, a federal prisoner, commenced this action by filing a complaint seeking relief for breach of contract and legal malpractice. *See* ECF No. 1. Severson did not pay the required filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”). *See* ECF No. 2. In an order dated November 21, 2014, this Court noted that Severson’s IFP application was deficient and ordered Severson to file an amended IFP application by no later than 20 days after the date of that order, failing which this Court would recommend that this case be dismissed without prejudice for failure to prosecute. *See* ECF No. 3; Fed. R. Civ. P. 41(b). This Court also ordered that Severson pay the initial partial filing fee required under 28 U.S.C. § 1915(b) by that date.

That deadline has now passed, and Severson has neither filed an amended IFP application nor paid the required filing fee. Indeed, Severson has not communicated with the Court at all about this case since initiating this lawsuit. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under

Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.
2. Plaintiff Nathan Paul Severson's application to proceed *in forma pauperis* [ECF No. 2] be **DENIED AS MOOT**.

Dated: December 29, 2014

s/ Tony N. Leung

Tony N. Leung
United States Magistrate Judge

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NOTICE

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties by **January 26, 2015**, a writing that specifically identifies the portions of the Report to which objections are made and the bases for each objection. A party may respond to the objections within fourteen days of service thereof. Written submissions by any party shall comply with the applicable word limitations provided for in the Local Rules. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment from the District Court, and it is therefore not directly appealable to the Eighth Circuit Court of Appeals.